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HEARINGS

BEFORE THE

1. COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE
OF THE HOUSE OF REPRESENTATIVES

ON

H. R. 27477
OHIO RIVER BRIDGE



WASHINGTON
GOVERNMENT PRINTING OFFICE
1909

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OHIO RIVER BRIDGE.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,
Tuesday, February 16, 1909.

The committee met at 10.45 o'clock a. m., Hon. William P. Hepburn (chairman) presiding.

The CHAIRMAN. The committee will be in order. The special order for to-day is the consideration of H. R. 27477.

Mr. KENNEDY. There is no one appearing here for this bill except Mr. Newell, and the bill itself is plain, and shows what is purposed by it; and as bearing upon the facts that led my constituents to urge the passage of this bill, I would say this, that it grew out of an effort to build a bridge at Parkersburg located 650 feet above a standing bridge there that is operated by the Baltimore and Ohio Railroad.

Mr. MANN. Parkersburg?

Mr. KENNEDY. Parkersburg, W. Va., across to a town called "Belpre," in Ohio. The bridge was located 650 feet above the present Baltimore and Ohio bridge, which has seven piers in the river. It was proposed to have two piers in the river, and a channel span equal to the width of both the channel spans of the Baltimore and Ohio bridge was provided, and perhaps about 100 feet more. Hearings were had. There were none of the river interests that contended that any hazard would be added to the transportation of freight down the river by reason of this bridge. The contention was made that it would in some way impede, or might hinder or impede, traffic up the river. This, by the way, is the first time that in like hearings the question has ever been made that piers in the river were a menace to travel upstream, it being manifest that all that a tow going upstream has to do, if it is carried by the current or winds so as to interfere with the pier, is simply to shut off power and go back; but going downstream they can not do that, and are carried against the pier.

The contention of my constituents is this, that in this case the Chief of Engineers simply refused to consider the needs of traffic by rail and by bridge, and considered only the traffic on the river. The engineer, with his board of advisers, suggested two alternatives in the building of a bridge at this point. Both of those alternative propositions were of a character to show that they were disposed to make fun of the bridge interests. In other words, the Baltimore and Ohio bridge—there is a map here that I will show the committee—is built on a curve. The law requires the bridge to be built of a certain height above low-water mark and above high-water mark, and locates the altitude at which every bridge must be built. The Baltimore and Ohio bridge, when it strikes the Ohio

side, is a truss bridge, and is built on a curve. They proposed that they would make no objections if this bridge were built 50 feet upstream from that bridge.

The span of 800 feet makes impossible the building of any bridge but a suspension bridge. Now, then, it is apparent to anybody—you do not need an engineer to know—that a suspension bridge can not be built 50 feet above that and cross that curved Baltimore and Ohio track at grade. A cantilever bridge could not be built there, so that the proposition indicates that they did not consider the rights of the bridge people at all. Their suggestion to them was an absurdity, suggesting an impossibility.

Then, another place where they proposed to acquiesce in the building of this bridge is in another impossible location, measuring upstream until they come to the waterworks, placing the bridge right at the location of the waterworks, where the intakes and everything are; so that in this case my constituents contend, and I think rightfully, that the engineers simply refused to exercise an honest discretion in this matter. Now, it seems a thing intolerable that a project of this kind, in the interests of commerce, should be checkmated and vetoed by a board of the army.

Mr. STEVENS. What engineer is stationed at Pittsburg?

Mr. KENNEDY. I do not know who the engineers were.

Mr. STEVENS. Who is the division engineer?

Mr. JAMES A. NEWELL. Colonel Rossell, Major Newcomer, and Lieutenant Adams.

Mr. MANN. What makes you think that the Secretary of War would issue this permit?

Mr. KENNEDY. I have no reason whatever to think so, but it seems as though we ought to have the right to an appeal from a decision as peremptory as this one was.

Mr. STEVENS. Have you taken it up with the Secretary?

Mr. KENNEDY. I talked with the Secretary, and I do not know whether it is in point for me to say what the Secretary said. I think, if the committee will excuse me, I will not. It seems to me to be beside the real question that is before the committee, to go into the question of whether or not the Secretary of War would or would not have approved this. I feel, as to those I represent, that the giving of this power, making the subordinate equal with the Secretary of War, is out of character and that the law ought to be corrected.

The CHAIRMAN. Judge, instead of changing a general statute of this kind simply because of dissatisfaction with the judgment of one of the officers who administer it, why would it not be better to attempt to overcome and control his judgment by a special act?

Mr. KENNEDY. Well, my colleague on the committee, Mr. Hubbard, who lives right down there in that vicinity, thinks that would be the better way. I filed this at the request of a lawyer, but as far as that is concerned I do not know but it might be better.

Mr. RICHARDSON. Do they pass upon it from a commercial standpoint as well as an engineering standpoint?

Mr. KENNEDY. I think Mr. Newell has a copy of the findings of the engineers.

Mr. RICHARDSON. They do not take anything into consideration but the engineering problem.

Mr. KENNEDY. They substantially hold that any pier in the river is an obstruction to navigation. This proposition was to build a bridge with a wider channel span than any other bridge, I think, between Pittsburg and Cincinnati.

Mr. MANN. Do the navigation interests on the river oppose your proposition?

Mr. J. FRANK TILLEY. Most decidedly.

Mr. HUBBARD. That is, the coal interests?

Mr. TILLEY. Yes; the Pittsburg coal interests.

Mr. HUBBARD. The West Virginia end of the bridge is in the district of my colleague, Mr. Woodyard, who is on the Committee on Rivers and Harbors, and that committee has an important session this morning, so that he could not be here, and he asked me to state that fact to the committee and state briefly what I know about this matter. I was not consulted about the preparation of this bill, and have no interest in it except that some of the persons interested in the proposed bridge and trolley line are residents of my district. For that reason I examined the location there as well as I could. I saw a report of the hearings. It seems to me that the trouble was just that indicated by the question of Judge Richardson, that these gentlemen had considered engineering matters and had lost sight of the commercial interests.

Mr. RICHARDSON. That is the point I want to find out, because I think that is a very material question when you come to pass upon a board of army engineers.

Mr. HUBBARD. I felt that, so far as I could get any light on what had been done by the engineers, they had not sufficiently considered the needs of not merely the cities right on the river, but the territory back from Parkersburg and back from Belpre, Ohio, because the trolley line that is proposed will serve a region of from 50 to 75 miles. I was not consulted in regard to the preparation of that provision in the bill. I was doubtful, in the first place, of the propriety of making general legislation in this particular place, and, if the bill were enacted, would be somewhat doubtful as to what the result might be, because it might very well be that the Secretary of War would take the view that the engineering question was the proper one; and if so, would be disposed to be governed by the decision of the Chief of Engineers. I must say frankly, though, as to this I do not want my colleague, Mr. Woodyard, to be committed; that it occurs to me that the merits of this question can be better thrashed out before the committee here and in Congress on a proposition which will take care of this particular project.

Mr. MANN. Has it occurred to you that Mr. Woodyard is a member of the Committee on Rivers and Harbors, that opposes the legislation and is going to bring in a bill in a few days, and that they might propose an amendment to it if they wanted to?

Mr. HUBBARD. I was not aware that they had any bill relating to the general control of the river.

Mr. MANN. This legislation is a part of the river and harbor bill. They are going to bring another one in.

The CHAIRMAN. The Rivers and Harbors Committee has no jurisdiction over any matter whatever except appropriations.

Mr. MANN. I understand. They may not have any jurisdiction under the rules, but they constantly exercise jurisdiction.

Mr. HUBBARD. They probably suspected that Mr. Mann would be on the floor ready to protect the jurisdiction of this committee, and for once the thing would not work.

Mr. MANN. That would at least show their recommendation.

Mr. HUBBARD. That may have been their idea. However, that suggestion had not occurred to me before.

The CHAIRMAN. Gentlemen, the hour for our adjournment has arrived.

(Thereupon, at 11 o'clock a. m., the committee adjourned until to-morrow, Wednesday, February 17, 1909, at 10.30 o'clock a. m.)

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
HOUSE OF REPRESENTATIVES,
Wednesday, February 17, 1909.

The committee met this day at 10.30 o'clock a. m., Hon. William P. Hepburn (chairman) presiding.

The CHAIRMAN. The special order this morning is the further consideration of H. R. 27477, a bill supplementary to an act approved March 3, 1899, entitled the "River and harbor act."

Mr. KENNEDY. The suggestion was made here that it was concluded to allow that matter to go over without further hearing.

Mr. HUBBARD. At present.

Mr. ADAMSON. Would it not be competent, if Mr. Kennedy desired, to amend this bill so as to make specific provisions as to the kind of bridge he does want, if he wants to get it through now?

The CHAIRMAN. I would think so.

Mr. ADAMSON. It seems to me it would be best for him to specify what he wants at that particular place.

Mr. KENNEDY. I would like to have that.

Mr. ADAMSON. Let us make Judges Richardson, Kennedy, and Hubbard a special committee, and let us see what can be done on that.

Mr. KENNEDY. There is a gentleman present from Pittsburg that opposes that specific length of structure—

Mr. TILLEY. Unless some proper length of channel span can be agreed upon.

Mr. KENNEDY. The channel span that our people would be willing to make would be about 800 feet long, and somewhat longer than both channel spans on the Baltimore and Ohio bridge.

Mr. TILLEY. If the committee would care to hear me, I would like to be heard on this bridge, so that we would not be considered as being entirely unreasonable or unreasoning.

Mr. MANN. The gentleman is here. Can he not be heard for five or ten minutes?

The CHAIRMAN. Yes. We can give you ten minutes. First give your name, please.

**STATEMENT OF MR. J. FRANK TILLEY, SECRETARY OF THE
PITTSBURG COAL EXCHANGE.**

Mr. TILLEY. My name is J. Frank Tilley, and I am secretary of the Pittsburg Coal Exchange. We do not like to be understood as being unreasoning and unreasonable in the matter of this proposed bridge across the Ohio River at Parkersburg.

Judge Kennedy stated some of the facts very fairly yesterday, and he said that it was the first time in his experience that he had ever known a bridge to interfere with upstream navigation. That is what this bridge does. The proposed location is in the elbow, a very deep bend in the Ohio River, and the Baltimore and Ohio Railroad already has a bridge across the river there which has been declared to be an unreasonable obstruction to navigation, and which on December 1, 1906, was ordered to be reconstructed by throwing what are called the two present channel spans into one span, and the time given then by the Secretary of War for this reconstruction expired on the 1st day of last December, since which time, according to the act of Congress, they are under a penalty of \$5,000 a month for each month that the bridge is left standing.

A wide channel span at this place in the Ohio River is needed for the reason that coal is moved down the river in very large fleets. The method of moving this coal could hardly be explained in the time allotted to me, but I may say that the coal tow will consist of a lot of barges and boats and a large steamer, the aggregate of the tow being about 20,000 tons. At this portion of the river they could tow a larger tow were it not for the fact that there are two other obstructions in the Ohio River, at Bellaire and Steubenville, which forbid it. These tows—and those not familiar with the subject of western navigation must not confuse them with tows in the deep-water sense—are pushed in front of the steamer. They are rigidly fastened together and run about six wide, six coal craft wide, each one of these being termed a “coal boat” or “barge,” and containing a thousand tons of coal. The craft is not of heavy construction, and as the coal is taken into the far southern market, the craft is, until the last few years, generally sold with the coal. It is generally worth just about its towing price back to Pittsburg. Each one of these craft is 26 feet in width, so that the front of this tow makes or presents a face of about 156 feet, and lengthwise the tow, with the length of the steamboat, measures from 925 feet to 1,125 feet. The towboat, in the sense of having control over the tow, has not in reality control over the tow, but merely acts as a guiding rudder. The boat has a stern-wheel and very deep rudders, which enable it to take advantage of the current and twist or turn, and the pilot, by taking advantage of the current, keeps his tow in the channel of the river, and makes all these devious bends, and presents a form of navigation that is the cheapest form known to man, and it is about the only method by which this coal can be gotten to the consumers at such distant points at such a moderate expense as not to have a prohibitory freight rate.

Now, as those tows go down the river and come to one of these bends they do what is called a “flanking operation.” If they started straight ahead, like an ordinary steamboat, they would just go into the bank and stack up 20,000 tons of coal in a hurry. At Parkers-

burg the Ohio River comes down this way [indicating on table], and turns a bend so abrupt that you almost think it is going back to its place of starting.

As was stated yesterday, this bridge, as proposed, does not present any difficulties to downward navigation. The channel is wide enough when the tow comes down, and to show the reasonableness of our asking not less than 900 feet above this bridge I may say that a bridge is proposed a half or a quarter of a mile below this bridge, which is a worse place yet. The hearing in regard to this matter was held as provided by law, and the United States board and the bridge company agreed upon a 1,025-foot span. But when this tow comes into this bend—and I have been on them myself—it occupies a position then where the tow and boats are almost square across the river. They are not pointed down the river at all; the boat's wheel is throwing water on the willows on the other side of the river, and the tow rests crosswise; and as to these craft which draw from 8 to 9 feet of water, the water is on the upper side and the current takes the tow around the bend, so that that channel span must be almost as long as the boat and tow are in order to afford safe navigation.

Now, it would not be worth while to go into the necessity of taking these large tows. It is understood that they have to be taken in large fleets in order to be moved cheaply.

Mr. ADAMSON. It would not be economical to uncouple them and take them down in divisions?

Mr. TILLEY. No.

Mr. KENNEDY. You have described the downstream process. The "empties" are generally sold down at New Orleans and are not brought back. How about coming upstream?

Mr. TILLEY. The normal supply of coal south of Memphis is about 1,000 boats a year, while the shipments at Pittsburg will make from about 3,000,000 tons to 4,000,000 tons a year in boats or barges. I stated that the price of a coal boat was about worth its towing value back to Pittsburg, and lumber has been getting so scarce in recent years that a great many empty craft are being brought back. You may have noticed that the steamer *Sprague*, the largest towing vessel in the world, was mentioned in the daily press not long ago as bringing 64 empty craft in one tow back from New Orleans, covering about 7 acres of water surface. We have to bring back some of these empty craft to control the market in Pittsburg. The price would soar too high if we did not bring some back.

Now, to return to this steamer's trip upstream. She has come to the worst part of the bend just before she gets to the Baltimore and Ohio bridge. She is now coming upstream. In the endeavor to get around this deep point—and it would not require demonstration—the current of the stream coming down this way [indicating], the current strikes the head of this long tow, which is a thousand feet long—

Mr. ADAMSON. It will not wash it through as it did the other way?

Mr. TILLEY. No. The current is now against it, and the current is very swift. This boat, endeavoring to get around this point here, finds her head is continually thrown over to the West Virginia shore, and by the time she gets to the present Baltimore and Ohio bridge she is heading over to the West Virginia shore, and drifts over broadside, and quite frequently she hits the West Virginia shore before

passing through the Baltimore and Ohio bridge at all. That is why a bridge 600 feet above the West Virginia bridge would interfere with navigation. It would not obstruct navigation entirely, but it would delay and block every upstream trip, and a boat coming down would delay an upstream boat, or vice versa.

Mr. KENNEDY. It would take a little time; that is all.

Mr. TILLEY. She would keep lumbering around in there. There is no telling what she would do.

Mr. KENNEDY. You are familiar with the proposed location of the pier?

Mr. TILLEY. Yes, sir.

Mr. KENNEDY. And that pier is away over, beyond, nearer the shore than the pier of the eastern channel span of the Baltimore and Ohio bridge, so that to hit that pier you would have to hit the shore if the pier were not there?

Mr. TILLEY. If there was only a channel span of 100 feet it would almost entirely obstruct navigation.

Mr. KENNEDY. The suggestion of the engineers was to build those piers 50 feet upstream from the pier of the Baltimore and Ohio bridge, and to have a new bridge run parallel.

Mr. TILLEY. If they did that, which is practically running one bridge, it wouldn't be so bad.

Mr. KENNEDY. Yes, but as an engineer, don't you know that the railroad company would enjoin them from making excavations within 50 feet of that pier?

Mr. TILLEY. I do not know that.

Mr. KENNEDY. They would not allow them to make excavations within 50 feet of their pier. It would be bound to throw their pier down. The suggestion of the engineers to have a parallel bridge just above and within the curve of the Baltimore and Ohio bridge was a mechanical impossibility. They would have to cross that curve on grade on the Ohio shore 30 or 40 feet above the ground with a suspension bridge?

Mr. TILLEY. I am not an engineer.

Mr. KENNEDY. These men were engineers when they proposed that to the bridge company.

Mr. HUBBARD. There is no trouble with downstream navigation?

Mr. TILLEY. Not a bit. Referring only to the proposed bridge, the present Baltimore and Ohio bridge always has been an unreasonable obstruction to navigation.

Mr. HUBBARD. There is no trouble with the upstream navigation, is there, except when the tow is coming up, composed of some barges empty which have gone down full?

Mr. TILLEY. Any large tow coming up would be obstructed. It would make no difference whether it was loaded or not.

Mr. HUBBARD. You do not take back all your barges, do you?

Mr. TILLEY. No; but in recent years nearly all.

Mr. HUBBARD. Is there any trouble, Mr. Tilley, coming upstream there, except when there is a strong westerly wind blowing?

Mr. TILLEY. Yes. I am not a river pilot; I am a shore man; but I know a good deal about it.

Mr. HUBBARD. You are familiar with the hearings, are you not?

Mr. TILLEY. Yes.

Mr. HUBBARD. Did not the pilots who testified and did not the engineers in that hearing and in their report indicate that there was trouble only when this strong westerly wind was blowing, calculated to throw the tow over to the West Virginia shore?

Mr. TILLEY. They have trouble with almost every large tow brought up through the Baltimore and Ohio bridge, maneuvering and losing time in getting tow in shape to pass it.

Mr. HUBBARD. The trouble is not serious at other times, is it?

Mr. TILLEY. I should say it is; yes, Mr. Hubbard. The wind comes into the Ohio River at right angles, and on the West Virginia side, just below the Baltimore and Ohio Railroad bridge, the prevailing winds in our latitude are westerly winds, and they generally blow up the Little Kanawha; and we navigate at the time of the year when the winds and storms are the worst, from the 1st of December to May or June. This year we did not get any navigation until about the 7th day of January.

Mr. HUBBARD. About how many tows do you bring up in a year?

Mr. TILLEY. You have me guessing, Mr. Hubbard, because that is not my individual business. I am not directly connected with the transportation department.

Mr. HUBBARD. If you had tows coming up so large that it is difficult to handle them, and this westerly wind was blowing, the only trouble, if the bridge was located as proposed by these gentlemen, would be that you would have to tie up until that wind abated?

Mr. TILLEY. That would be a most serious objection, Mr. Hubbard.

Mr. HUBBARD. Have you considered the delay to which a great many people would be subjected who would have occasion to use this bridge and the trolley line that is to pass over it?

Mr. TILLEY. Yes. But if the bridge is once constructed, the bridge is there forever.

Mr. HUBBARD. And the people would be crossing it all the time; so that it is a question between that continual traffic on the one hand and your occasional arrival with part of your tows; and what you complain of would be the delay during the prevalence of a westerly wind when you would have to tie up temporarily.

Mr. TILLEY. You minimize the condition, Mr. Hubbard. The delay would be very serious if it would obstruct the navigation of the river. You know the navigation rights are paramount. You know there is a special bridge law for the Ohio River that does not obtain for any other river in the country.

Mr. HUBBARD. Your idea is that the rights of people carrying coal down that stream are paramount to the rights of people who want to travel across the stream?

Mr. TILLEY. No; but I voice the opinion of the Supreme Court in a number of cases when I say that the rights of navigation are paramount. You can not go back on the Supreme Court.

Mr. HUBBARD. But Congress in more than one instance has legislated, has it not, to maintain a bridge across the river for that very reason? The Wheeling bridge stands there and was constructed in accordance with an act of Congress. One of those bridges is a suspension bridge. Your interests opposed that bridge, did they not?

Mr. TILLEY. That was before my day.

Mr. HUBBARD. You know, do you not, that Pittsburg steamers failed in times of high water to throw down their chimneys in order not to

strike that bridge in rough weather? You know that attempts have been made to do that thing by boats that could have avoided it by lowering their chimneys at occasional times of high water?

Mr. TILLEY. No, sir. I am not aware of that, but I am making my personal statement as strong as I can, and I have no reason to suspect that others did it. I know the U. S. snagboat *E. A. Woodruff* knocked her chimneys off there.

Mr. ADAMSON. Mr. Chairman, the time has arrived for the House to meet.

Mr. HUBBARD. Just one moment, if you please. You spoke, Mr. Tilley, of the engineers determining and the interested parties acquiescing in the 1,025-foot span in the bridge below the Baltimore and Ohio bridge. What became of that enterprise?

Mr. TILLEY. It has fallen through, so I am informed.

Mr. HUBBARD. It was impossible, financially as well as physically, to construct that bridge on that plan, and that fell through on account of your opposition?

Mr. TILLEY. No. The Wabash bridge at Pittsburg is one of the largest in the world, and it—

Mr. ADAMSON. I move that the chairman appoint a subcommittee before whom Judge Kennedy can present this matter.

Mr. WANGER (acting chairman). The chair will appoint Mr. Kennedy, Mr. Hubbard, and Mr. Richardson.

Mr. HUBBARD. Mr. Chairman, I am rather committed to this proposition, and I do not think for that reason I can with propriety serve on the subcommittee.

Mr. WANGER. Then I would appoint Mr. Townsend.

Mr. KENNEDY. I am interested also, Mr. Chairman.

Mr. WANGER. Then I will appoint Mr. Knowland and Mr. Bartlett and Mr. Townsend. Mr. Kennedy is the author of the measure here, and it was suggested that perhaps a bill could be formulated, if found to be proper, to meet the particular case in view.

[H. R. 27477, Sixtieth Congress, second session.]

February 1, 1909.—Mr. Kennedy, of Ohio, introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce and ordered to be printed:

A BILL Supplementary to an act approved March third, eighteen hundred and ninety-nine, entitled the "River and harbor act."

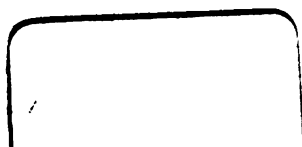
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act of Congress approved March third, eighteen hundred and ninety-nine, entitled the "River and harbor act," shall be, and the same is hereby, amended by striking out sections nine and ten of said act and substituting therefor the following:

"Sec. 9. That it shall not be lawful to construct or commence the construction of any bridge, dam, dike, or causeway over or in any port, roadstead, haven, harbor, canal, navigable river, or other navigable water of the United States until the consent of Congress to the building of such structures shall have been obtained, and until the plans for the same shall have been submitted to and approved by the Secretary of War: *Provided*, That such structures may be built under authority of the legislature of a State across rivers and other waterways the navigable portions of which lie wholly within the limits of a single State, provided the location and plans thereof are submitted to and approved by the Secretary of War before construction is commenced: *And provided further*, That when plans for any bridge or other structure have been approved by the Secretary of War, it shall not be lawful to deviate from such plans either before

or after the completion of the structure unless the modification of said plans has previously been submitted to and received the approval of the Secretary of War.

"Sec. 10. That the creation of any obstruction not affirmatively authorized by Congress to the navigable capacity of any of the waters of the United States is hereby prohibited; and it shall not be lawful to build or commence the building of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, or other structures in any port, roadstead, haven, harbor, canal, navigable river, or other water of the United States, outside established harbor lines or where no harbor lines have been established, except on plans authorized by the Secretary of War; and it shall not be lawful to excavate or fill, or in any manner to alter or modify the course, location, condition, or capacity of any port, roadstead, haven, harbor, canal, lake, harbor of refuge, or inclosure within the limits of any breakwater, or of the channel of any navigable water of the United States, unless the work has been authorized by the Secretary of War prior to beginning the same."

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